

May 27, 2010

VIA ELECTRONIC FILING

Hon. Randolph F. Treece
U.S. Magistrate Judge
James T. Foley - U.S. Courthouse
445 Broadway
Albany, NY 12207-2924

Re: Wham-O, Inc. v. Manley Toys, Ltd., et al.
09-MC-84 (GLS/RFT)

Dear Judge Treece:

Pursuant to the Court's Order of May 18, 2010, the parties wish to submit this joint report which shall further serve as a stipulation of the parties to resolve the pending discovery dispute.

On May 17, 2010, Magistrate Judge Carla Woehrle of the Central District of California issued a written Order addressing the production of documents by the parties to the litigation. After review of Magistrate Judge Woehrle's Order, and in consideration of various pending issues in both the underlying litigation and other litigation and disputes between the parties, movant Brian Dubinsky ("Dubinsky") and Wham-O, Inc. ("Wham-O") have reached the following agreement to resolve the dispute concerning the production of documents by Navigant Capital Advisors, LLC ("Navigant") pending before this Court.

1. Wham-O, Inc. agrees to produce, by June 4, 2010, un-redacted versions of the documents produced by Navigant in response to the Subpoena Duces Tecum served on it by Dubinsky. The only exception to the foregoing is the redacted e-mails produced by Navigant.
2. Dubinsky agrees that those documents produced in response to paragraph 1 may be properly designated by Wham-O, Inc. as "Highly Confidential – Outside Attorney's Eyes Only" in accordance with the terms of the Stipulated Protective Order entered in the underlying litigation, and that he will not challenge such designations or seek to de-designate such documents in this or any Court.
3. Dubinsky agrees that the Motion to Compel Navigant's Production of


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Documents currently before this Court is hereby withdrawn. Dubinsky, however, retains any right he may otherwise have to bring a new Motion to Compel un-redacted versions of the e-mails identified in paragraph 1, above.

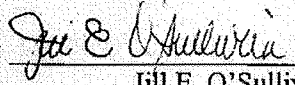
The parties wish to thank the Court for its assistance in this matter and its patience in allowing the parties to resolve this discovery dispute.

Respectfully submitted,

RESCH POLSTER & BERGER, LLP
Counsel for Wham-O, Inc.

By: 
Andrew V. Jablon

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Counsel for Movant Brian Dubinsky

By: 
Jill E. O'Sullivan

BOND, SCHOENECK & KING, PLLC
Counsel for 3rd Party Navigant Capital
Advisors, LLC

By: 
Stuart F. Klein

SO ORDERED

Date: _____

Hon. Randolph F. Treece
United States Magistrate Judge